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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/770,998	01/25/2001	David B. Montgomery	BILL.01P	7555
20350	7590	08/19/2004	EXAMINER	
TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834			SAGER, MARK ALAN	
			ART UNIT	PAPER NUMBER
			3714	

DATE MAILED: 08/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/770,998

Applicant(s)

MONTGOMERY ET AL.

Examiner

M. A. Sager

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3-14,17-25,27-34 and 37-74 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☒ Claim(s) 1,3-14,17-25,27-34 and 37-74 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### *Drawings*

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the pay table calculator, composite or third pay table (structure, as claimed) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. It is noted that figs 10, 14, 20, 27 depict hand frequencies, but not a composite or third pay table, as claimed and figs. 1-9, 11-13, 15-19, 21-26, 28-36 illustrate schematic representations of different video display screens of the type as might be shown on gaming machine (as stated on 9:32-10:1 of specification).

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the pay table calculator (as claimed), the pay table calculator, composite or third pay table (as claimed) lack antecedent basis in so far as creation or generation of a composite or new or bonus pay table. It is noted that pay table calculator... composite pay table was claimed at least in originally filed claim 2; however, there is a lack of disclosure within originally filed specification to provide antecedent basis for the claim language.

3. The disclosure is objected to because of the following informalities: the brief description of drawings (9:32-10:2) does not appear to correctly describe figs. 10, 14, 20 or 27 which appear to illustrate pay table or hand frequencies of various games selected to be played; hand frequencies are not illustrated to players and thus brief description appears in error. Appropriate correction is required.

4. The amendment filed May 3, 2004 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material that is not supported by the original disclosure is as follows: a wager is received in order to participate in the new game where the new game is a composite of at least first and second game results is not disclosed or suggested in originally filed disclosure.

Applicant is required to cancel the new matter in the reply to this Office Action.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

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The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claim 57, 63 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter that was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The claimed invention includes subject matter not previously disclosed in originally filed specification and thus appears to add new matter (sic).

***Allowable Subject Matter***

7. The indicated allowability of claims is withdrawn in view of reconsideration of scope of claimed invention and in view of newly discovered reference to: Walker.

Rejections based on the reconsidered scope and newly cited reference follow.

***Claim Rejections - 35 USC § 102***

8. Claim 1, 3-4, 9-11, 13-14, 17-25, 27-34, 37-56, 60-62, 64, 66-74 is rejected under 35 U.S.C. 102(b) as being anticipated by Moody. The claimed invention, as best understood, is anticipated by Moody at least due to claim breadth failing to preclude Moody's multi-game play where each pay line is a independent game (3:38-39) that has its own wager and a composite pay table for achieving five high ranking combinations that is either a bonus or progressive award. The disclosed multi-game simultaneous play includes same game type selection which encompasses Moody's game machine and method, thus, the claimed invention given broadest interpretation thereof is anticipated by Moody's same game type selection. Moody discloses a machine and method comprising claimed steps/features including an electronic gaming device (1:66-2:15, 38-40, figs. 1-

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3), having a plurality of games where each pay line is an independent game (2:29-24, 3:30-31), a user -actuable input such as touch screen (2:17-57, 3:1-6), a game controller for substantially, simultaneously initiating play of multiple ones of said plurality of games in response to user activation thereof (1:19-48, 1:66-2:4, 2:29-3:37), a pay table calculator to calculate a composite pay table based on joint possible results (3:30-6:27, Table I, esp. 3:30-31, 4:3-50) for selecting a first game from a menu (310), supplementing said selection by a further selection of an additional game (2:17-34, 3:30-31, refs. 320-350), generating a composite pay table (sic) and substantially simultaneously initiating play and concurrently playing first and second games (3:1-4:50, esp. 3:1-41, 4:3-50) where a special bonus award that can be progressive is achieved for five high ranking combinations at the same time (sic).

***Claim Rejections - 35 USC § 103***

9. Claim 5-8, 12, 57-59, 63, 65 is rejected under 35 U.S.C. 103(a) as unpatentable over Moody. Moody discloses a game machine and method comprising claimed features/steps (supra) including progressive (4:45-50), but lacks disclosing a wager is received to play a new game or the network aspects, as claimed. However, by Official Notice, it was notoriously well known to link game machines in a network so as to provide progressive payout by accumulating side wages for participation in a bonus game that provides a progressive payout upon achieving a predetermined winning result in the bonus/progressive game whereby, the linking of multiple gaming machines in a network for a progressive bonus game permits the jackpot payout of the progressive bonus game to accumulate faster at least due to more players [e.g. linked] contributing to the jackpot which provides excitement and competition to see the jackpot amount increase while

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competing to be the player to win the jackpot. The additional wager funds the jackpot. Therefore, it would have been obvious to an artisan at a time prior to the invention to add network interface in communication with said game controller, enabling communication with said controller from a remote location; wherein said remote location is a separate electronic gaming device; wherein a plurality of separate electronic gaming devices communicate with said game controller; wherein said composite pay table is communicated to each of said plurality of separate electronic gaming devices; establishing communication between a plurality of electronic gambling devices and communicating said third pay table to said plurality of electronic gambling devices; a wager is received in order to participate in a new game; the award is based on joint possible outcomes of said multiple ones of said plurality of games from at least two electronic gambling devices in the plurality of separate gaming devices; receiving a wager to participate in the new game as notoriously well known to Moody's machine and method in order to accumulate a progressive bonus faster at least due to more players contributing to the jackpot which increases excitement and competition to see the jackpot amount increase from contributions while competing to be the player to win the jackpot.

10. Claim 1, 3-14, 17, 20-28, 30-34, 37, 39-56, 58-62, 64-74 is rejected under 35 U.S.C. 103(a) as being unpatentable over Walker (6312332) in view of Itkis (4856787). Alternatively, as best understood, for group or team play, where a first game is played by a player on a first machine, a second game of same type as first player is played by a second player on a second remote machine and a composite or third pay table is for a new or bonus game generated based on first and second player linked for team play and the generated pay table is a joint result of first and second machine results for team play and

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the play of first and second player at respective first and second machine is substantially simultaneously initiating play so as to be concurrently playing, Walker discloses a method and apparatus comprising all claimed steps/features (4:20-14:25, esp. 4:33-45, 6:1-7:6, 7:19-8:51, 12:14-14:25, figs. 1-11C) except plurality of games and menu.

Walker discloses method and apparatus for slot machines and defines slot machines to include video poker, video blackjack, bingo and keno machines, but does not disclose that a gaming machine includes a selection of a plurality of games from a menu (as particularly claimed). However, it was notoriously well known for a gaming machine to offer a plurality of games selectable from a menu of game titles/types so as to increase game offerings for the same amount of usable space within the casino or gaming halls' limited floor space. Casinos have limited floor space to provide gambling options; so by providing gaming machines with a menu offering a plurality of games selectable to be played the casino increases the likelihood that a player will be attracted to a type of game to play from the same space of a gaming machine. Itkis discloses a game machine teaching a menu having a plurality of games selectable by a player so as to increase the number of games a player may select to play for the limited space of a gaming machine. Therefore, it would have been obvious to an artisan at a time prior to the invention to add a plurality of games and a menu as notoriously well known or as taught by Itkis to Walker's apparatus and method so as to increase the number of games offered to be played which increases casino revenue while conserving floor space.

11. Claim 18-19, 29, 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over Walker in view of Itkis as applied to claim 1, 20, 31 above, and further in view of Celona (5564700). Walker in view of Itkis discloses a apparatus and method comprising claimed



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features/steps (supra) except progressive. Walker and Itkis each disclose cooperative, team play of game apparatus, but do not disclose such team or alliance play being for a progressive game. Celona discloses a method and machine teaching cooperative play of slot machines in a progressive game (3:8-9:12, fig. 1-3) so as to increase interest at linked gaming machines by distributing winning jackpot proportionately among linked [e.g. teamed] machines (2:10-50). Therefore, it would have been obvious to an artisan at a time prior to the invention to add progressive as taught by Celona to Walker's apparatus and method in view of Itkis so as to increase interest at linked gaming machines by distributing winning jackpot proportionately among linked [e.g. teamed] machines (2:10-50).

#### ***Response to Arguments***

12. Applicant's arguments filed May 3, 2004 have been fully considered but they are not persuasive. Moody clearly teaches providing a pay table calculator to calculate a composite pay table based on joint possible outcomes of said multiple ones of said plurality of games initiated by said user activation for a bonus payout when five high ranking combinations occur among the five simultaneous games (3: 30-31, 4:45-50).

13. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

14. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Jones discloses progressive game requiring a side or additional bet to participate in progressive game.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. A. Sager whose telephone number is 703-308-0785.

The examiner can normally be reached on T-F, 0700-1700 hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's acting supervisor, Jessica Harrison can be reached on 703-308-2217. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



M. A. Sager  
Primary Examiner  
Art Unit 3714

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